

Chapter II: Administrative Procedures

Division 1- Permit Procedures

A. Development Permit Required

A development permit shall be required for any construction, reconstruction, addition, change of use, clearing, grading, filling, excavation, or for any development activity of any kind except as specifically exempted by Sec. II.C. (Subdivisions are not subject to development permits, but shall be designed, reviewed, and approved pursuant to the Anaconda Deer Lodge County (ADLC) Subdivision Regulations.) This Development Permit System (DPS) establishes two basic types of development permits:

1. **Administrative Development Permits (ADP).** This type of permit shall be reviewed and processed administratively as set forth in Sec. II. G. This permit is required for all “principal permitted” uses and structures and all accessory uses and structures in all development districts. Specifically, ADPs are required for the following:
 - a. Construction of and additions to single-family dwellings.
 - b. Construction of agricultural buildings for which a building permit is also required.
 - c. Home occupations.
 - d. Changes of use of any building or structure from one principal permitted use to another principal permitted use in any district for which a use table has been adopted.
 - e. Any grading, clearing, filling, demolition or any excavation in preparation for development.
 - f. Excavation or digging of any kind that displaces more than one cubic yard of material within the Superfund Planning District (SPD), or five cubic yards of material outside of the SPD. Excavation includes, but is not limited to, grading, blasting, or otherwise displacing rock or dirt, for any reason, including but not limited to roads, driveways, individual septic systems, landscaping, foundations, basements, fences, and wells of any kind, including geotechnical drilling.
2. **Major Development Permits (MDP).** This type of permit requires a public hearing before the ADLC Planning Board, and is subject to final approval by the Board of County Commissioners. The review procedure is set forth in Sec. II.H. Major Development Permits (MDP). MDPs are required for the following:
 - a. Special uses as specifically listed in development districts for which a use table has been adopted.
 - b. In development districts for which no use table has been adopted, any change of land use, and any building or structure other than a single-family home, accessory structure, or agricultural structure. For purposes of this section, a change of land use shall mean a change from one land use category to another, i.e., residential to commercial, commercial to industrial, etc. It may also mean single-family residential to two-family or multiple-family residential.
 - c. Planned Unit Developments.
 - d. Clearing, grading, dredging, filling, drilling, construction of retaining walls, or excavation of any kind within stream or lakeshore protection zones established by these regulations. In addition, any and all development activity along the Big Hole River must comply with ADLC Ordinance No. 208.

- e. Development or construction of any single structure in a commercial or industrial district that exceeds 30,000 square feet of gross floor area.
- f. Any residential building in any development district that exceeds four (4) units, including townhome units.

B. Institutional Controls Plan

1. In order to protect the ADLC citizens and the general public from the health risks associated with industrial contamination of air, water, dust, and soil, an Interim Institutional Controls Plan (IICP) has been developed by Anaconda-Deer Lodge County. This document provides the mechanisms and procedures that should be used to ensure that property is properly remediated, that institutional controls are in place and maintained, and that previously applied remedies are kept intact and are not compromised through development.
2. The procedures set forth in the IICP are designed to assist the developer/property owner in avoiding liability under Superfund. The IICP is not mandatory, and development on any property within the SPD may either follow the procedures of the Interim ICP or the requirements of Chapter XXVI- Superfund Planning Area Overlay District, of this DPS, at the developer's option.
3. For development within the SPD, and for which the developer chooses the IICP process, the Work Plan described in the IICP will become part and parcel of any Development Permit issued pursuant to this DPS.

C. Exemptions

Development activities that are exempt from Development Permits will fall into one of two categories: those projects located within the Superfund Planning District, and those located outside of the SPD.

1. Developments located **outside** of the SPD: While not exempt from the requirements and standards of these regulations, the following development, construction, and activities are exempt from Development Permits:
 - a. Any activity conducted by any agency, employee, or contractor of the United States government or a Potentially Responsible Party (PRP), as required by the U.S. Environmental Protection Agency (EPA) as part of a removal or remedial action in compliance with the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) and the permanent remedy, provided that the ADLC Planning Department is notified prior to the commencement of any work.
 - b. Typical and customary agricultural activities in agricultural districts, including but not necessarily limited to pasturing, crops, and the raising and caring for livestock, provided said activities do not take place within a stream bank or lakeshore protection area identified in these regulations. This exemption does not include slaughtering/packing operations or Concentrated Animal Feed Operations (CAFO) at any scale.
 - c. Excavation, grading, or tilling associated with agricultural activities permitted by these regulations, gardening, or the maintenance of existing uses provided said activity does not take place within a stream or lakeshore protection area or flood plain.
 - d. Excavations or earthwork of any kind (other than those exempted in Sec. C.1.c above) that involve less than five (5) cubic yards of material, provided such activity

does not take place within a stream or lakeshore protection area or floodplain. Regrading of existing private roadways and driveways are also exempt, provided that new material added or material removed does not exceed five (5) cubic yards.

- e. Residential and agricultural accessory structures that are also exempt from building permits (less than 120 square feet of floor area and less than 10 feet in height), provided that such structures meet any applicable set back standards, and are not located within stream bank or lakeshore protection areas or floodplains.
 - f. Repair or remodeling that does not involve additions to the existing structure, except that where bearing walls are modified or relocated, a building permit may be required.
 - g. Signs are subject to sign permits as set forth in the ADLC Sign Code, and are not subject to development permits.
 - h. Fencing for residential and agricultural uses and structures that is six (6) feet in height or less, and that meet the specific standards for fencing set forth in this DPS.
 - i. Repair or replacement of floating docks, and the repair and replacement of the decking of existing piling supported docks, provided that the area of the dock and area disturbed within the stream or lakeshore protection area is not increased.
 - j. Minor utility installations such as service lines, except within stream or lakeshore protection areas. A General Utility/Street Construction and Repair (GUS) Permit is required for any work performed in an ADLC public right-of-way or easement.
2. The following development activities located **within** the SPD are exempt from Development Permits. However, anyone undertaking an exempt activity is encouraged to consult the Interim Institutional Controls Plan (IICP) for assistance and to obtain a Record of Compliance (ROC):
- a. Any activity conducted by any agency, employee, or contractor of the United States government or a Potentially Responsible Party (PRP), as required by the U.S. Environmental Protection Agency (EPA) as part of a removal or remedial action in compliance with the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) and the permanent remedy, provided that the ADLC Planning Department is notified prior to the commencement of any work.
 - b. Agricultural activities as set forth in Sec. C.1.b, provided that such activities do not take place in an area where a soil cap has been used as the remedy.
 - c. Excavation or grading associated with any agricultural activity, gardening, and maintenance of existing uses and structures, and excavation and general earthwork as set forth in Sec. C.1. c and d. above, provided that not more than one (1) cubic yard of material is disturbed.
 - d. Repair or remodeling that does not involve additions to the existing structure, except where bearing walls are modified or relocated, a building permit may be required. Persons undertaking repairs or remodels within the SPD are encouraged to consult the Community Protective Measures Program (CPMP) for advice on attic dust and other possible contaminants.
 - e. Signs as set forth in Sec. C.1. f. above, except for ground signs and monument type signs where more than one (1) cubic yard of material is disturbed.
 - f. Residential and agricultural accessory structures as set forth in Sec. C.1. d. above provided that no more than one (1) cubic yard of material is disturbed.

D. Utility Emergencies

1. Work necessitated by utility emergencies such as water line breaks and sewer and storm drain blockages that is within the purview of ADLC shall be carried out according to the ADLC General Utility/Street Construction and Repair (GUS) Permit.
2. Emergency utility work on private property may proceed without a Development Permit provided that all excavated materials are stockpiled for later inspection and testing if necessary. All such emergency work must be reported to the ADLC Planning Department within 48 hours of discovering the emergency.

E. Application Fees

Application fees for each type of permit established by these regulations shall be established by resolution of the Board of County Commissioners. No application shall be deemed complete until the applicable fee is paid.

F. Site Inspections

The filing of an application for any type of development permit constitutes consent of the property owner and applicant for authorized County personnel to conduct inspections of the subject property during the review process. Refusal of the owner or applicant to allow authorized personnel on site for necessary inspections may delay review of the permit application, and/or result in denial of the application.

G. Administrative Development Permits (ADP)

The purpose of the ADP is to assure that all building construction and development activity complies with these regulations as well as regulations promulgated by other agencies as applicable. An application for an ADP may be filed concurrently with a building permit application, or prior to applying for a building permit. An ADP application may also be filed concurrently or prior to any application for a well permit or individual sewage disposal permit.

1. The applicant shall file a properly completed application form, including a site plan, project description, and any other required supporting materials, with the Administrator. Once all required materials are submitted, the Administrator shall deem the application complete.
2. The Administrator or his/her designee shall review the application to determine compliance with these regulations. Should the Administrator find that the application is in compliance, the application shall be approved. However, the Administrator may impose reasonable conditions to assure compliance with these regulations as well as the regulations promulgated by other agencies as they may apply.
3. Within ten (10) business days of receipt of a properly completed application, the Administrator may determine that the proposed development has a substantial impact on the landscape, surrounding neighborhood, natural resources, and/or local facilities and services. The Administrator shall then inform the applicant in writing that the proposal will be reviewed as a Major Development Permit (MDP) pursuant to Sec. II.G, and the reasons therefore.
4. The application shall be approved or denied within 20 business days, and the applicant shall be notified in writing within seven (7) business days of the decision.

H. Major Development Permits (MDP)

In each development district for which a use table has been adopted, both principal permitted uses and special uses are listed. Special uses are those uses that may be appropriate and desirable in the development district, but due to special circumstances or conditions and/or the nature of the special use, these uses should be examined on a case by case basis. In addition, conditions may be imposed on special uses to ensure that they are compatible with the applicable development district and that adverse impacts to the surrounding neighborhood are avoided or effectively mitigated. Special uses are authorized only through approval of a Major Development Permit (MDP). As set forth in Sec. II.A.2.b, changes of land use in development districts for which no use table is adopted are also subject to MDPs. Uses not specifically listed as special uses (in districts for which a use table has been adopted) cannot be allowed through an MDP.

1. The applicant shall request a pre-application conference with the Administrator. The primary purpose of this conference is to provide guidance to the applicant on the MDP review process, submittal requirements, applicable provisions of the IICP guidelines and procedures, and to identify any issues that the applicant may wish to address in the formal application. The Administrator shall make a record of this conference, and upon request shall provide this record to the applicant.
2. The applicant shall submit an application for a Major Development Permit on a form supplied by ADLC, and shall remit the applicable fee. All material required on the application form must be submitted. Incomplete applications cannot be accepted by the ADLC Planning Department.
3. Once an application for an MDP is complete, the Administrator shall schedule the application for a public hearing before the Planning Board at the next available regular or special meeting.
4. Owners of property within 150 feet of the subject property (exclusive of rights-of-way) shall be notified of the application by first class mail sent no later than 15 days prior to the scheduled public hearing.
5. A public notice shall be published in the official newspaper of ADLC at least 15 days prior to the scheduled public hearing. The public notice shall give the time, date, and location of the public hearing, and shall describe the nature of the permit request.
6. The Planning Board shall conduct a hearing on the proposed MDP following the procedures outlined in the Boards adopted "Rules of Procedure".
7. Following the public hearing, the Planning Board may adopt a recommendation of approval, approval with conditions, or denial, and forward the request to the Board of County Commissioners for final action.
8. In making a recommendation for approval of an MDP, the Planning Board must make a finding that the following criteria and standards are each met in substance as they may apply to the permit application:
 - a. That the proposed development or use is in compliance with the ADLC Growth Policy.
 - b. That the proposed development or use meets with the purpose and intent of the development district in which it is located.
 - c. That the site is suitable for the proposed development or use in terms of size, location, access, and environmental constraints such as a flood plain or steep slopes.
 - d. That the site will be or has been remediated in accordance with the Interim ICP.
 - e. That the proposed development or use is consistent with the scale, character, and prevailing design of the surrounding neighborhood.

- f. That impacts to air and water quality, forest resources, wildlife, and other natural resources are minimized or mitigated.
 - g. That potentially adverse impacts to the surrounding neighborhood such as noise, vibration, dust, smoke, glare, and odors are avoided or effectively mitigated.
 - h. That pedestrian and vehicular circulation and access are adequate and safe for the proposed use, and that traffic impacts associated with the proposed development will not be detrimental to the surrounding neighborhood or the community at large.
 - i. That all necessary public services and facilities are adequate for the proposed development, and that the development will not place an inordinate demand on local services and facilities. Local services include, but are not necessarily limited to water, sewer, storm drainage, schools, parks and recreation, fire protection, law enforcement, EMS, and local medical services.
 - j. That all screening, buffering, landscaping, parking, loading, lighting, and other ordinance requirements are met.
- 9. The Planning Board may recommend reasonable conditions designed to avoid or mitigate any adverse impacts associated with the proposed use, and to ensure that the standards and criteria set forth above are substantially met.
 - 10. The applicant shall be notified in writing of the Board of County Commissioners' final action within ten (10) business days of the Board's decision.

I. Development Permits Valid for Two Years

Administrative Development Permits and Major Development Permits must be exercised within two (2) years from the date of actual approval. Any development permit for which the authorized work, use, construction, or development has not been commenced within two (2) years of the approval date is deemed to have expired with no further action on the part of ADLC. The **issuance** of a building permit within two (2) years of Development Permit approval vests the Development Permit for the duration of the building permit. Once a Development Permit has been exercised and vested, it is valid in perpetuity unless:

- 1. The expiration or reauthorization of a Development Permit was a condition of its approval, or
- 2. The Development Permit is revoked for cause as provided in Sec. K of this chapter.

J. Issuance of a Development Permit

Development Permits issued pursuant to this chapter are limited in their authorization to the work and/or development expressly described therein. Issuance of a Development Permit does not convey any broad powers or authority to the applicant beyond the purpose for which the permit was applied and issued. Development Permits shall run with the land, are site specific, and are not transferrable to another property or site.

K. Revocation of Development Permits

- 1. Development Permits may be revoked for good cause shown. Procedures to revoke Development Permits may only be initiated by ADLC, and only the ADLC Board of Commissioners is authorized to revoke a Development Permit.
- 2. Prior to initiating any permit revocation procedure, ADLC shall have:
 - a. Conducted an inspection of the subject property.
 - b. Thoroughly investigated any complaints.

- c. Contacted the property owner, operator, or applicant (as applicable) in writing notifying him/her of the nature of complaints, issues, and/or potential violations.
 - d. Provided the property owner, operator, or applicant every reasonable opportunity to address and correct conditions, violations, or deficiencies.
- 3. A Development Permit may be revoked based on one or more of the following findings:
 - a. That the initial application and/or representations made by the applicant in connection with the application were fraudulent or otherwise inaccurate or misleading to the extent that the decision to grant the Development Permit was based upon or influenced by said application or representations.
 - b. That operation of the authorized use or development has become a public nuisance and/or an imminent threat to the public health, safety, and general welfare.
 - c. That the applicant has not adhered to any or all of the conditions of the Development Permit.
- 4. The ADLC Board of Commissioners may revoke a Development Permit upon approval by simple majority where findings and cause for the revocation are set forth in the motion to revoke.
- 5. The applicant shall be notified of the revocation action through a cease and desist order.

Division 2- Appeals and Variances

L. Administrative Appeals

- 1. Any interpretation of these regulations or any decision made by the Administrator pursuant to these regulations may be appealed to the Board of Adjustment (BOA) following the procedures set forth below. Such appeal shall be taken within a reasonable time as provided by the rules of the Board.
 - a. The appellant shall file a written appeal on a form provided by ADLC, and shall provide all relevant supporting information. A filing fee shall be paid by the appellant.
 - b. Upon receipt of the appeal, the Administrator shall publish a notice in the official ADLC newspaper at least ten (10) days prior to the next scheduled meeting of the Board of Adjustment, and shall place the appeal on the Board's agenda for that meeting. The Board must meet within 30 business days of an appeal filed with the Administrator.
 - c. The BOA shall conduct a hearing on the appeal following procedures set forth in the Board's adopted Rules of Procedure. No appeal shall be heard if the appellant or a representative is not present. If the appeal involves an action taken or permit granted to a third party, such as a property owner or development, no hearing shall be conducted unless the third party is present.
 - d. Based upon relevant findings and conclusions, the BOA may uphold, overturn, or modify the action or interpretation made by the Administrator. The BOA shall take final action within 35 days of the initial opening of the public hearing.
 - e. The Administrator shall notify the appellant and other interested parties in writing of the BOA's decision within ten (10) business days.
 - f. Any decision of the BOA may be appealed to District Court as provided in Sec. 76-2-327, MCA. Notice of intent to file an appeal shall halt all proceedings by the Administrator to carry out the BOA decision, unless in the judgment of the Administrator, such action is imperative due to imminent public health or life safety concerns.

2. When in the judgment of the Administrator, his/her decision or interpretation of the regulations will affect a specific property or class of properties, and/or have a potentially significant impact on a neighborhood or landscape of the County, the Administrator shall notify adjacent property owners via first class mail of his/her intent to render a decision or interpretation. The letter sent shall explain the pending decision and shall invite comment for a period of not less than 15 days following the date of the notice. At the end of this comment period, the Administrator may officially render the decision or interpretation, and communicate it in writing to all parties involved. Once the decision or interpretation is finalized, the decision or interpretation may be appealed to the Board of Adjustment through the procedure set forth in Sec. II.K.1.

M. Variances

The Board of Adjustment (BOA) may in specific cases grant relief from the standards and requirements of these regulations as set forth in Sec. 76-2-323, MCA.

1. The applicant shall apply for a variance on a form supplied by ADLC. The applicable filing fee shall be paid, and all relevant supporting materials shall be submitted.
2. Upon receipt of the application, the Administrator shall publish a notice in the official ADLC newspaper at least 15 days prior to the next regular meeting of the Board of Adjustment, and shall place the variance on the Board's agenda for that meeting.
3. The Administrator shall notify all property owners within 150 feet of the subject property by regular first class mail at least 15 days prior to the date of the hearing by the BOA.
4. The BOA shall conduct a hearing on the proposed variance following procedures set forth in the Board's adopted Rules of Procedure. No hearing shall be conducted if the applicant or a representative is not present.
5. In applying the provisions of Sec. 76-2-323 (1)(c), MCA, the BOA may only grant relief upon a finding that the following criteria are met in substance as they may apply to the application:
 - a. The variance is necessitated due to exceptional and/or extraordinary circumstances or conditions that are unique to the subject property, and are not generally characteristic of similarly situated properties.
 - b. Approval of the variance(s) will preserve a property right or use that is generally enjoyed by owners of similarly situated properties, and conversely, approval of a variance will not bestow a special privilege on the applicant that is not generally enjoyed by the owners of similarly situated properties.
 - c. The alleged hardship has not been created by the applicant.
 - d. Specific relief from the code shall be the minimum necessary to accomplish the applicant's stated objectives.
 - e. Adverse impacts associated with granting relief from the code are avoided or effectively mitigated.
6. Conditions may be imposed by the BOA that will cause the above criteria to be met.
7. Final action is required on a variance request within 35 days of the initial opening of the public hearing.
8. The Administrator shall notify the applicant and interested parties of the BOA decision in writing within 10 days.
9. Decisions of the BOA may be appealed to District Court as set forth in Sec. 76-2-327, MCA.

Division 3- Roles and Responsibilities

N. DPS Administrator

1. The DPS Administrator shall be the ADLC Planning Director, who is charged with the administration, interpretation, and enforcement of the ADLC Development Permit System.
2. Powers and Duties. The Administrator or his/her designees shall:
 - a. Enforce any and all provisions of these regulations.
 - b. Keep complete, accurate, and secure records.
 - c. Accept applications and appeals and ensure their appropriateness and completeness.
 - d. Update these regulations and the official Development District Map as directed by the Board of County Commissioners.
 - e. Report to the Planning Board and Board of County Commissioners any recommendations for amendments and improvements to these regulations and the procedures contained herein.
 - f. Interpret these regulations as they apply to specific properties and developments.
 - g. Determine the location of any development district boundary.
 - h. Render lawful similar use rulings for uses not specifically listed in the development districts for which a use table has been adopted.
 - i. Receive and investigate allegations of noncompliance or violation of these regulations, and take appropriate abatement action.
 - j. Review and issue Administrative Development Permits.
 - k. Make recommendations to the Planning Board and Board of County Commissioners on the issuance of Major Development Permits (MDP) and amendments to these regulations and the Official Development District Map.
 - l. Make recommendations to the Board of Adjustment on variance applications.

O. Planning Board

1. The Planning Board is advisory to the Board of County Commissioners on matters of long range planning and development review so that ADLC may carry out its responsibilities under Title 76, MCA.
2. The Planning Board is established by ADLC Ord. 209, as may be amended from time to time
3. The Planning Board shall consist of nine members, appointed by the Board of County Commissioners, all of whom must reside in Anaconda-Deer Lodge County.
4. The Board shall serve without compensation except for expenses authorized in the performance of their duties.
5. A member of the Planning Board may not simultaneously be a member of the Board of Adjustment. Members of the Planning Board may be appointed to special ad hoc task forces or study groups from time to time.
6. It shall be the duty of the Planning Board to hold public hearings when necessary and to make recommendations to the Board of County Commissioners on matters concerning the creation and boundaries of development districts, amendments to these regulations, and Major Development Permits

P. Board of Adjustment

1. The ADLC Board of Adjustment shall consist of five members appointed by the Board of County Commissioners.
2. The Board of Adjustment is established by ADLC Ordinance No. 181, as may be amended from time to time.
3. The Board shall serve without compensation except for expenses authorized in the performance of their duties.
4. The Board of Adjustment shall have the authority to:
 - a. Hear and decide appeals in which it has been alleged that there is an error in order, requirement, decision, or interpretation made by the DPS Administrator in the enforcement of these regulations.
 - b. Hear and grant or deny any proper application for a variance to the terms, conditions, or standards of these regulations.
5. The Board shall conduct hearings according to its own adopted rules of procedure.

Division 4 – Hearing Procedure

Q. Hearing Procedure

This procedure shall be followed in all hearings required by these regulations. For the purposes of this section the term “board” will apply to any of the entities required to conduct hearings.

1. The presiding officer shall announce the purpose and subject of the hearing.
2. The presiding officer shall determine whether proper notice of the hearing has been provided. That determination shall be based on the submission of affidavits of publication and certified mail receipts showing full compliance with the notice requirements of these regulations. If proper notice has not been provided, the hearing shall be re-scheduled.
3. The presiding officer shall ask if any board member wishes to declare a conflict of interest, as defined by X XX.R. in the matter to be heard and excuse any member who declares such a conflict from participation in the hearing.
4. The presiding officer shall ask the administrator to present a report on the proposal being considered.
5. The presiding officer shall direct questions from board members to the administrator. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.
6. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its compliance or lack of compliance with the plan and these regulations.
7. The presiding officer shall ask for a statement from the developer or his or her representative. Board members may ask questions following this statement. All questions and replies shall be directed through the presiding officer.

8. Following the developer's statement, the presiding officer shall ask for statements from the public. Persons giving statements shall begin by stating their name and mailing address. Board members may ask questions following any statement. All questions and replies shall be directed through the presiding officer.

9. When all statements have been given, the presiding officer shall ask if any person who gave a statement wishes to speak in rebuttal to other statements or to clarify their statement. Neither new statements nor the introduction of new evidence shall be permitted at this time. Questions from board members may follow each rebuttal or clarification.

10. The presiding officer shall close the public hearing and call for discussion by the board. That discussion shall lead to action on the matter being considered.

11. Written statements, plans, drawings, photographs or other materials offered in support of statements at a hearing are part of that hearing's record and shall be retained by the county. Supporting materials shall be left with the administrator after each statement is made.

R. Additional Hearing Procedures

These procedures may be used without prior notice to assist in the conduct of large or controversial hearings.

1. The Board may impose time limits on the statements given in order to assure completion of its agenda.

2. The Board may require persons who wish to make a statement to register their intention to do so with the administrator. The presiding officer shall use the register to call on persons to present their statements.

S. Hearings to be Taped

A transcribable tape record of all hearings required by these regulations shall be made and kept for two years after a decision has been made.

T. Decision Record

All decisions shall be reported in the form of a development review checklist that describes the development's compliance or lack of compliance with each performance standard of these regulations. The completed decision record shall include the application materials and any report prepared by or on contract for the administrator.

Division 5 - Enforcement

U. Failure to Obtain a Permit

Whenever the administrator becomes aware of an activity for which a permit is required by these regulations, but for which a permit has not been approved, he or she shall notify the occupant (and owner, if they are not the same) of the site to immediately cease all unpermitted activity. Notice shall be given by posting on the site and/or first class mail. If activity does not cease, the administrator shall ask the county attorney to take prompt action, as authorized by 76-2-308 and 76-3-105, MCA to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition. Required restoration shall include restoration of vegetative cover where sites have been graded in violations of these regulations.

V. Certificate of Compliance

A certificate of compliance shall be issued before any development is occupied. A certificate of compliance indicates that on-site inspection has shown that the development complies with these regulations, including any conditions imposed upon its approval. Occupancy of a development without a certificate of compliance shall be a violation of these regulations. The issuance of a certificate of compliance shall not be construed as approval of any violation of these regulations that may have been undiscovered during the inspection.

W. Temporary Certificate of Compliance

A temporary certificate of compliance may be issued to permit temporary use of a building in cases where weather prevents the prompt completion of such required site improvements as landscaping. No temporary certificate of compliance shall be issued for more than 120 days.

X. Enforcement Actions

The process for enforcement of these regulations shall be as described here.

1. The administrator shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and/or posting on the site. The notice shall describe the violation, cite the sections of these regulations being violated, and order the occupant to attain compliance within 30 days.
2. Any person who receives a notice of violation may request inspection by the administrator to show that compliance has been attained within the 30 days allowed, or:
 - a. files a written request with the administrator for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 days and culminated by an inspection to show that compliance has been attained; or
 - b. file an appeal of the administrator's notice, following the appeals procedures of II.O.
3. The administrator shall ask the county attorney to commence legal action, as authorized by 76-2-308 or 76-2-315, MCA, against any occupant or owner who fails to attain compliance within the specified time, or to show, on appeal, that a violation has not occurred.
4. Public Endangerment. The enforcement procedure provided here may be accelerated where the administrator finds that public health and safety could be endangered by a violation. In such cases, the administrator shall ask the county attorney to take immediate action to end the danger to public health and safety.

Y. Violations and Penalties

1. A person commits the offense of violating these regulations whenever he or she:
 - a. undertakes or proceeds with an activity for which a permit is required by these regulations without having obtained such a permit;
 - b. purposely or knowingly makes any misrepresentation in any application for a permit required by these regulations;

- c. occupies any development for which a permit was required by these regulations without first having obtained a certificate of compliance, as required by II.V. or II.W.;
 - d. fails to fulfill any condition imposed on the approval of an application for a permit in order to ensure compliance with these regulations; or
 - e. fails to maintain any improvement required for compliance with these regulations.
2. The penalties for violations of these regulations shall be:
- a. for zoning violations, as provided in 76-2-315, MCA, a fine, not exceeding \$500 or imprisonment in the county jail not exceeding six months or both; and
 - b. for violations of subdivision regulations, as provided in 76-3-105, MCA , a fine of not less than \$100 or more than \$500 or imprisonment in the county jail for not more than three months or both fine and imprisonment.

Division 6 – Amendments

Z. Amendments

While this division provides procedures for their amendments, it should be understood that both these regulations and the comprehensive plan are results of a multi-year process of research, analysis and public involvement. Also, given the nature of the plan and these regulations, it should be understood that amendments must generally alter the policy for an entire development district, rather than for a single parcel of land. Given these factors, amendments to these regulations should be rare.

AA. Development Code Amendments

Any person may petition for the amendment of these regulations. The amendment procedure shall be as provided here and in 76-2-303, MCA, et seq.

1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
2. The administrator shall place a hearing on the application for a zoning amendment on the agenda of the next regular board meeting for which the notice requirements can be met and at which time allows for its proper consideration.
3. The administrator shall publish notice of the hearing in the official newspaper at least 15 days before the hearing. The cost of this notice shall be billed to the applicant and shall be in addition to the required application fee. The notice shall be as required by II.K.3.
4. The administrator may contract for professional review of the application, with the cost of that review being covered by the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt,

provide a copy of this report to the developer and place it on file for public review with the other application materials.

5. The board shall conduct a hearing on the proposed amendment following the procedure established in II.Q. At the hearing, the board shall determine whether the proposed amendment is consistent with the plan, and recommend that the commission approve or disapprove it accordingly. Action on a proposed zoning amendment may be tabled for further review, but for no more than 35 days.

6. The administrator shall convey the board's recommendation to the commission and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirement can be met and at which time allows for its proper consideration. The notice shall be as required by II.K.3.

7. The commission shall conduct a hearing on the proposed amendment following the procedure established in II.Q. At the hearing, the commission shall consider the recommendation of the board and all testimony received, then approve or disapprove the amendment. Action on a proposed amendment may be tabled for further review, but for no more than 35 days.

8. The administrator shall notify the developer and interested parties of the commission's decision within 10 days.

BB. Plan Amendments

Any person may petition for amendment of the plan. The amendment procedure shall be as provided here and in 76-1-604, MCA.

1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.

2. The administrator shall place a hearing on the application for a plan amendment on the agenda of the next regular board meeting for which the notice requirements can be met and at which time allows for its proper consideration.

3. The administrator shall publish notice of the hearing in the official newspaper at least 15 days before the hearing. The cost of this notice shall be billed to the applicant and shall be in addition to the required application fee. The notice shall be in addition to the required application fee. The notice shall be as required by II.K.3.

4. The administrator may contract for professional review of the application, with the cost of that review being covered by the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.

5. The board shall conduct a hearing on the proposed amendment following the procedure established in II.Q. Action on a proposed zoning amendment may be tabled for further review, but for no more than 35 days.

6. The administrator shall convey the board's recommendation to the commission and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements can be met and at which time allows for its proper consideration. The notice shall be as required for a special use permit.

7. The commission shall conduct a hearing on the proposed amendment following the procedure established in II.Q. At the hearing, the commission shall consider the recommendation of the board and all testimony received, then approve or disapprove the amendment. Action on a proposed amendment may be tabled for further review, but for no more than 35 days.

8. The administrator shall notify the developer and interested parties of the commission's decision within 10 days.